

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,) 8:96CR46
)
)
v.)
)
LEON DELMAR MILTON,) ORDER
)
)
Defendant.)
)

This matter is before the Court on motion of defendant Leon Milton ("Milton") for appointment of counsel for the purposes of litigating a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (Filing No. [578](#)). Milton is currently sentenced to three hundred sixty (360) months imprisonment based on responsibility for 5.268 kilograms of cocaine base.

A court may reduce a sentence under § 3582(c)(2) where the defendant's sentence was "based on a sentencing range that has subsequently been lowered." At Milton's original sentencing, the drug quantity resulted in a base offense level of 38. With adjustments, Milton's total offense level was 41. His criminal history category was VI because he qualified for career offender status. Thus, at sentencing, Milton's guideline range was 360 months to life imprisonment.

Under the revised Guidelines, the lowest total offense level Milton could arguably qualify for is 39. Combined with his criminal history category, the revised guideline range would be

360 months to life imprisonment -- the same as his current guideline range. Thus, the changes do not operate to lower Milton's guideline range and no reduction is appropriate under § 3582(c)(2). Accordingly,

IT IS ORDERED that defendant Milton's motion for appointment of counsel is denied.

DATED this 17th day of September, 2012.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court